

## **CHAPTER 5**

### **RESIDENT ENROLLMENT, TUITION, AND TUITION/PROGRAM ASSISTANCE**

#### **Definitions**

##### **Resident**

"Resident" means a child who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.
2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. section 11302 (a) and (c).
3. Lives in a juvenile detention center, foster care facility, or residential facility in the district (282.1).

##### **Enrolled Pupil**

A pupil shall be considered enrolled after officially registering with the school or school district and taking part in the educational program (IAC 281--12.2).

Note that enrollment for budget purposes includes all pupils enrolled and taking part in the educational program on the third Friday in September who meet one of the classifications in section 257.6. Also note that some classifications must be counted as full-time-equivalents (FTE). Although districts may calculate additional or supplementary weighting for certain categories of pupils under other sections of the Code, no pupil may be counted as enrolled more than 1.0 (FTE) under section 257.6.

Pupils in a regular curriculum attending all their classes in the district in which they reside, taught by teachers employed by that district, and having administrators employed by that district, are assigned a weighting of one (257.11(1)).

##### **Residence**

The Iowa Supreme Court stated: "Ordinarily, the legal residence of a minor is the same as that of the parents, but a minor may have a residence for school purposes other than that of the parents. The test of residence which will confer school privileges is not the same as the test for taxation or for the exercise of the right of suffrage." The court construed "residence" to mean the place, abode, or dwelling of the person, and this opinion is quite carefully followed in determining pupil residence for school purposes (Mt. Hope School District v. Hendrickson, 197 Iowa 191,193 (1924)).

"In the acquisition of a school domicile two factors concur - actual resident and intention." If a pupil leaves home with the intention of living independently and making a home where the pupil works, the pupil is entitled to all the privileges of a resident, including free schooling, but all surrounding facts must be considered to determine whether or not residence was established only for school purposes (OAG #37-2-19(L); 1958 Op. Att'y Gen. 198 (#57-3-6)).

The place where the occupant mainly and substantially performs those acts and offices which characterize a home, such as sleeping, sitting, eating and receiving visitors, is determined as the residence. If it is impossible to determine in which school district the occupant performs these acts and offices, then the occupant must elect one for the purposes of taxation and school attendance, and that election would be binding upon the statutory authorities in those matters (OAG #46-9-5(L)).

When a taxpayer lives in a home in one district and other buildings are in another district, the taxpayer's children would attend the district in which the home is located (OAG #26-2-25, OAG #46-9-5).

Residence for school purposes is not the same as legal domicile. A temporary residence, if not taken for the primary purpose of obtaining free schooling, may be sufficient for school privileges. For instance, children residing in mobile home parks, by reason of employment of parents, are entitled to tuition-free schooling in the school district where the mobile home park is located (OAG #55-9-7(L)).

Residence for school purposes is determined by intention of the parties and is broader than resident for taxation or suffrage (OAG #27-10-20).

A child cannot be expelled because of non-residence until a court has determined actual residence (OAG #28-11-20).

### **Actual Enrollment for Budget Purposes**

Actual enrollment is determined on the third Friday of September in each year and includes all of the following:

- a. Resident pupils who were enrolled in public schools within the district in grades kindergarten through twelve and including prekindergarten pupils enrolled in special education programs.
- b. Full-time equivalent resident pupils of high school age for which the district pays tuition to attend an Iowa community college.
- c. Shared-time and part-time pupils of school age enrolled in public schools within the district, irrespective of the districts in which the pupils reside, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time nonresident pupil shall be reduced by the amount of any increased state aid by the counting of the pupil. [Note that the resident district, if it is not the one providing the instruction for these shared-time and part-time students, would not count these students in basic enrollment nor pay tuition for these students unless served pursuant to an IEP in a public school program. Also note that the requirement on how to calculate shared time FTE is identical to the requirement for calculating maximum tuition for the part-time attendance of students so it would result in no tuition billed to parents.]
- d. Eleventh or twelfth grade nonresident Iowa pupils who were residents of the district during the preceding school year and are enrolled in the district until the pupils graduate. Tuition for those pupils shall not be charged by the district in which the pupils are enrolled and the requirements of section 282.18 [Open Enrollment] do not apply. [As an exception, students served pursuant to an IEP would be counted by the resident district who would pay tuition to the former district of resident where the student is continuing his/her education under this junior-senior rule (OAG #88-8-3(L)).]
- e. Resident pupils receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to chapter 299A shall be counted as six-tenths of one pupil [called home school assistance program or HSAP].
- f. Resident pupils receiving competent private instruction under dual enrollment pursuant to chapter 299A shall be counted as one-tenth of one pupil (257.6(1)).

No student in paragraphs “a” through “f” shall be counted in any other paragraph “a” through “f” except that a student who is enrolled and served in the HSAP and is also dual enrolled and served in classes in the public school district may be counted once under paragraph “e” and once under paragraph “f.”

Competent private instruction means private instruction provided on a daily basis for at least one hundred forty-eight days during a school year, to be met by attendance for at least thirty-seven days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under section 299A.2, or other person under section 299A.3, which results in the student making adequate progress (299A.1).

Competent private instruction may include, but is not limited to, a home school assistance program which provides instruction or instructional supervision offered through an accredited nonpublic school or public school district by a teacher, who is employed by the accredited nonpublic school or public school district, who assists and supervise a parent, guardian, or legal custodian in providing instruction to a child. If competent private instruction is provided through a public school district, the child shall be enrolled and included in the basic enrollment of the school district as provided in section 257.6 (299A.2).

A parent, guardian, or legal custodian of a child of compulsory attendance age provided competent private instruction to the child shall provide proof of adequate educational program (299A.3).

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under chapter 299A or a child over compulsory age who is receiving private instruction submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child’s grade or group and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual evaluation under chapter 29A. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school’s basic enrollment under section 257.6. A pupil who is participating only in extracurricular activities

shall be counted under section 257.6, subsection 1, paragraph “f.” A pupil enrolled in grades nine through twelve under this section shall be counted in the same manner as a shared-time pupil under section 257.6(1)(c) (299A.8).

A parent may not use dual enrollment to enroll a child in all courses except one. Districts may set their own policy to limit the number of courses (D.o.E. App. Dec. 44).

A public school district may not make monetary payments directly or indirectly to the parent, guardian, or legal custodian or to a child receiving competent private instruction (IAC 281—31.4(4)).

Actual enrollment includes prekindergarten special education program students (OAG #80-4-6).

An eligible pupil attending an accredited nonpublic school who is participating in postsecondary enrollment options provided under chapter 261C shall be counted as a shared-time student in the school district in which the nonpublic school of attendance is located for state foundation aid purposes (261C.3(2)).

Pupils attending a university laboratory school are not counted in the actual enrollment of a school district, but the laboratory school shall report them directly to the department of education (257.6(1)).

Resident students attending a laboratory school as described in chapter 265 under open enrollment shall not be included in the basic enrollment of the student's district of residence, and the laboratory school shall report the enrollment of the student directly to the department of education, unless the number of students from the district attending the laboratory school during the current school year, as a result of open enrollment, exceeds the number of students enrolled in the laboratory school from that district during the 1988-1990 school year (282.18(15)).

Each school district shall report all of the students included in its certified enrollment count taken pursuant to Iowa Code section 257.6 by that student's county of residence. The county of residence shall be the county of residency of the student's parent or guardian. The county of residence for an emancipated minor attending the school district shall be the county in which the emancipated minor is living. If a school district cannot determine an enrolled student's county of residence, the county of residence shall be the county in which the school district certifies its budget (IAC 2--96.2).

## **Tuition**

Persons between five and twenty-one years of age are of school age. A board may establish and maintain evening schools or an educational program under section 282.1A for residents of the corporation regardless of age and for which no tuition need be charged. Nonresident children shall be charged the maximum tuition rate as determined in subsection 282.24(1), with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under section 282.7, subsection 1 or subsections 1 and 3, shall be charged tuition as provided in subsection 282.24(2) (282.1).

A board of directors of a public school district may, subject to the approval of the department of education, provide an extended school program for residents of the district who are over the maximum school age [age twenty-one] established in section 282.1, who do not possess a high school diploma or a high school equivalency diploma under chapter 259A, and who are currently enrolled in an education program in the district. The educational program may be separate from or integrated into the regular school program. Residents attending the program shall be included in the district's basic enrollment and shall attend on a tuition-free basis. A district may also provide services to nonresidents under this section, and those persons shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person as provided in section 282.6 (282.1A(1)).

A district which wishes to provide an extended school program, in addition to meeting any requirements set by the department, shall establish all of the following prior to obtaining approval for the program:

- a. There is an identified presence of resident persons who are over the maximum established school age [age twenty-one], who do not possess a high school diploma or a high school equivalency diploma under chapter 259A.
- b. The provision of services to these additional persons will not substantially interfere with the educational programming provided to students of school age.
- c. The provision of services will not require additional or new facilities to meet the needs of the identified populations (282.1A.(2)).

The board of any school district may establish and maintain public evening schools as a branch of the public schools when deemed advisable for the public convenience and welfare. When ten or more persons over sixteen years of age residing in any school district shall, in writing, express a desire for instruction in the common branches at an evening

school, the school board shall establish and maintain an evening school for such instruction for not less than two hours each evening for at least two evenings each week during the period of not less than three months of each school year. Such evening school shall be available to all persons over sixteen years of age who for any cause are unable to attend the public day schools of such school districts (288.1, 288.2, 288.3).

The board of directors in any school district situated in whole or in part in any city having a populations of twelve thousand or over, in which there shall reside or be employed, or both, fifteen or more children over fourteen years of age and under sixteen years of age, who are not in regular attendance in a full-time day school and who have not graduated from a four-year approved high school, shall establish and maintain part-time schools, departments, or classes for such children. In districts situated in whole or in part in cities having less than twelve thousand population, the board may establish and maintain such schools. Such part-time schools, departments, or classes, for the attendance of children over fourteen and under sixteen year of age, shall be organized in accordance with standards established by the state board for vocational education and shall provide for not less than eight hours of instruction per week during the length of term for which public schools are established in the district. Such part-time schools, departments, or classes shall be held between the hours of eight o'clock am. and six o'clock p.m. (298.1, 298.3).

Every school shall be free of tuition to all actual residents between the ages of five and twenty-one years and to resident veterans, as many months after becoming twenty-one years of age as they have spent in the armed forces of the United States before they became twenty-one, provided, however, fees may be charged covering instructional costs for a summer school or drivers education program. The board of education may, in a hardship case, exempt a student from payment of the above fees. Every person, however, who shall attend any school after graduation from a four-year course in an approved high school or its equivalent shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person. This section shall not apply to tuition authorized by chapter 260C (Community Colleges). For purpose of this section, "resident" means a person who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.
2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. section 11302(a) and (c).
3. Lives in a residential correctional facility in the district (282.6).

A student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school, unless the student was expelled or suspended from school and the conditions of expulsion or suspension have not been met. The student under expulsion or suspension shall not be enrolled until the board of directors of the school district to which territory of the dissolved school district was attached approves, by majority vote, the enrollment of the student. Notwithstanding section 282.24, the district of residence of the student, determined in the dissolution proposal, shall pay tuition to the school district selected by the student in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the student shall accept that tuition payment and enroll the student (275.55A). Open enrollment requirements would not apply. If the student is served pursuant to an IEP, tuition would be the actual costs of the special education instructional program rather than the district cost per pupil.

A school district that provides driver education to students enrolled in a parochial school located within the district shall charge tuition for students who are nonresidents of the district (OAG #82-5-16(L)).

The maximum tuition fee that may be charged for elementary and high school students residing within another school district or corporation except students attending school in another district under section 282.7, subsection 1, or subsections 1 and 3, is the district cost per pupil of the receiving district as computed in section 257.10. This does not prevent the corporation or district in which the student resides from paying a tuition in excess of the maximum computed tuition rates, if the actual per pupil cost of the preceding year so warrants, but the receiving district or corporation shall not demand more than the maximum rate (282.24, OAG #53-9-8).

Unless specifically authorized by Code, no other per pupil funding shall be added to the maximum tuition rate.

The school corporation in which the student resides shall pay from the general fund to the secretary of the corporation in which the student is permitted to enroll, a tuition fee as prescribed in section 282.24. It shall be unlawful for any school district to rebate to any pupils or their parents, directly or indirectly, any portion of the tuition collected or to be collected or to authorize or permit such pupils to receive at the expense of the district, directly or indirectly, any special compensation, benefit, privilege, or other thing of value that is not and cannot legally be made available to all other pupils enrolled in its schools. Any superintendent or board members responsible for such unlawful act shall each be personally liable to a fine not to exceed one hundred dollars. Action to recover such penalty or action to enjoin such

unlawful act may be instituted by the board of any school district or by a taxpayer in any school district. On or before February 15 and June 15 of each year the secretary of the creditor district shall deliver to the secretary of the debtor district an itemized statement of such tuition fees (282.20).

Iowa Code section 282.21 sets up the method for the collection of tuition fees owed from one local board to another but not paid, and subsection 285.1(13) provides the method of collection of transportation costs (OAG #52-2-7(L)).

If tuition payment is not made, the board of the creditor corporation shall file with the auditor of the county of the pupil's residence a statement certified by its president specifying the amount due for tuition, and the time for which the same is claimed. The auditor shall transmit to the county treasurer an order directing the county treasurer to transfer the amount of such account from the funds of the debtor corporation to the creditor corporation, and the county treasurer shall pay the same accordingly (282.21).

A school district which waives the right to collect tuition from a nonresident pupil must provide equal treatment to all other nonresident pupils enrolled in its schools (OAG #73-3-15). Waiving collection of legitimate tuition revenue may violate the public interest.

A school corporation cannot discriminate in the rate of tuition which it charges pupils for the same school advantages, whether the pupils live within the state or without the state (OAG #28-5-24(L)).

School-age pupils whose parents are residents of the school district are entitled to free tuition even though their parents are state employees, that is, if the parents reside in the district and have no other place of residence (OAG #24-11-24(L)).

School-age pupils whose parents are aliens and who are residents of Iowa are entitled to school privileges without tuition in the district wherein they reside (OAG #27-12-2).

Schools having students whose parents are residents of the district but who work on federal property should be aware of the provisions of Public Law 874 and, if eligible, shall secure the proper application forms from the department of education.

When parents move during the school year, a change in schools or payment of tuition is ordinarily necessary (Nishna Valley Community School District v. Malvern Community School District, 255 Iowa 132, 138; 121 N.W. 2d 646 (1963)).

If a non-resident pupil enters school at the beginning of the school year but is forced by sickness or other reasons to be absent from school for several weeks, and if the pupil returns and makes up schoolwork, the receiving district is entitled to full tuition. This would not apply for the part of the year in which the pupil was not enrolled after the beginning of the term (OAG #30-8-12(L)).

A school board cannot use the funds of a district to pay tuition to a private or parochial school (OAG #28-8-27(L)).

### **Offsetting Tax**

The parent or guardian whose child or ward attends school in a district of which the parent or guardian is not a resident shall be allowed to deduct the amount of school tax paid by the parent or guardian in said district from the amount of tuition required to be paid (282.2).

The benefit provided to offset tuition by the amount of school tax is available for tuition charged to nonresident pupils who receive shared time instruction pursuant to a relationship between a public and an accredited nonpublic school (OAG #83-1-8(L)).

When a tenant rents property in two districts, living in one district where there is a school but sending the children to a school in another district, the tenant must pay tuition. But if the tenant pays any school tax in the district where the children attend school, the tenant is entitled to deduct such school tax from the amount of tuition (OAG #23-2-10(L)).

Property tax on trust property for which a parent is not liable is not available to offset nonresident tuition charges (OAG #88-1-7(L)).

### **Foreign Exchange Program Students**

The term “legal resident of Iowa” in our opinion should be defined as a residence in the county with the good faith intention of making a home in said county coupled with the physical facts showing such intention. That is, the residence must not be for a temporary purpose only but must be with the present good faith intention of making it a home without any present intention of removing therefrom (1930 Op. Att’y Gen. 153).

Aliens in the United States on temporary student visas are not residents of Iowa (OAG #79-6-12).

Visiting students on visas do not meet the two basic criteria for tuition-free residence in Iowa public schools under 282.1: They are not and cannot become residents of the school districts in which they live in the state because of the temporary nature of the residence inherent in the visa and the visa status indicates that they are in the United States for the primary purpose of obtaining an education (1 D.P.I. Dec. Rul. 80).

Omnibus Authorization Bill for the Commerce, State and Justices Department, P.L. 104-208, “Illegal Immigration Reform and Immigrant Responsibility Act of 1996,” requires that visiting students on F-1 visas must pay tuition to attend public elementary and secondary schools or publicly funded adult education programs.

Federal law mandates that foreign students on F-1 visas must pay tuition. There is no exception to this law. Federal law does not apply to students on J-1 visas. Iowa school districts can continue to waive collection of tuition for students on J-1 visas based on the ‘nonresident children residing temporarily in the district’ provision in section 281.1 (Iowa Superintendents Update, Department of Education, 1996-97). Waiving tuition does not authorize the district to consider the students on J-1 visas to be resident students.

### **Special Education Tuition**

Any special education instructional program not provided directly by a school district or any special education support service not provided by an AEA can only be provided through a contractual agreement. The board must approve contractual agreements for AEA-operated special education instructional programs and contractual agreements permitting special education support services to be provided by agencies other than the AEA (IAC 281--41.128).

The law that allows eleventh and twelfth grade students to move from a district but to continue attending the district until graduation without the payment of tuition does not include those students who require special education and are counted in the “weighted enrollment” for the generation of funds. Special education students may still participate in the “junior-senior rule option,” however, the district of residence must pay tuition to the former district of residence continuing to serve the student (OAG #88-8-3(L)).

The program costs charged by a school district or an AEA for an instructional program for a nonresident eligible individual shall be the actual costs incurred in providing that program (IAC 281—41.132(1)).

An AEA or school district may make provisions for a resident eligible individual through contracts with public or private agencies which provide appropriate and approved special education. The program costs charged by or paid to a public or private agency for special education instructional programs shall be the actual costs incurred in providing that program (IAC 281--41.132(2)).

The resident district shall be liable only for instructional costs incurred by an agency for those individuals certified as entitled in accord with these rules unless required by 34 C.F.R. section 300.302, July 1, 1999 (IAC 281--41.132(3)).

For eligible individuals living in a licensed child foster care facility as defined in Iowa Code 237.1 or in a facility as defined in Iowa Code section 125.2, the school district in which the facility is located must provide special education if the facility does not maintain a school. The costs of the special education, however, shall be paid by the school district of residence of the eligible individual. If the school district of residence of the eligible individual cannot be determined, and the eligible individual is not included in the weighted enrollment of any school district in the state, the school district in which the facility is located may certify the costs to the director of education by August 1 of each year for the preceding fiscal year. Payment shall be made from the general fund of the state (IAC 281--41.132(5)).

For eligible individuals placed by the district court, and for whom parental rights have been terminated by the district court, the school district in which the facility or home is located must provide special education. Costs shall be certified to the director of education by August 1 of each year for the preceding fiscal year by the director of the AEA in which the eligible individual has been placed. Payment shall be made from the general fund of the state (IAC 281--41.132(6)).

The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located,

only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a," was not made by any district (232.31(3), letter of advice re. Sidney and Villisca and Responsibility for Payment of Carl L.'s Special Education Costs (February 19, 1999)).

### **Tuition to Postsecondary Institutions**

By May 1 of each calendar year, postsecondary institutions shall send to local school districts a request for payment for participation in the postsecondary enrollment options act. The request shall identify the students, courses, credits, and charges. A pupil attending an accredited nonpublic school shall be counted as a shared-time student in the school district in which the nonpublic school of attendance is located (IAC 281--22.5).

Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to an eligible postsecondary institution that has enrolled its resident eligible pupils under chapter 261C. For pupils enrolled at the school for the deaf and the Iowa Braille and sight saving school, the state board of regents shall pay a tuition reimbursement amount by June 30 of each year. The amount of tuition reimbursement for each separate course shall equal the lesser of:

1. The actual and customary costs of tuition, textbooks, materials, and fees directly related to the course taken by the eligible student.
2. Two hundred fifty dollars (\$250).

A pupil is not eligible to enroll on a full-time basis in an eligible postsecondary institution and receive payment for all courses in which a student is enrolled (261C.6).

An eligible postsecondary institution that enrolls an eligible pupil under chapter 261C shall not charge that pupil for tuition, textbooks, materials, or fees directly related to the course in which the pupil is enrolled except that the pupil may be required to purchase equipment that becomes the property of the pupil. However, if the pupil fails to complete and receive credit for the course, the pupil is responsible for all costs directly related to the course as provided in section 261C.6 and shall reimburse the school district for its costs. If the pupil is under eighteen years of age, the pupil's parent, guardian, or custodian shall sign the student registration form indicating that the parent, guardian, or custodian is responsible for all costs directly related to the course, if the pupil fails to complete and receive credit for the course. If the local AEA verifies that the pupil was unable to complete the course for reasons including but not limited to the pupil's physical incapacity, death in the family, or the pupil's move to another school district, a verification by the AEA shall constitute a waiver to the requirement that the pupil, pupil's parent, guardian, or legal custodian pay the costs of the course to the school district (261C.8).

An eligible postsecondary institution shall make pro rata adjustments to tuition reimbursement amounts based upon federal guidelines established pursuant to 20 U.S.C. section 1091b (261C.9).

In addition to postsecondary enrollment options classes, Community Colleges may provide the following programs for high school age students under chapter 28E:

- Programs for all students of high school age who may best serve themselves by enrolling for vocational and technical training while also enrolled in a local high school, public or private (260C.1(5)).
- Programs for students of high school age to provide advanced college placement courses not taught at a student's high school while the student is also enrolled in the high school (260C.1(6)).

Except for students enrolled under the postsecondary enrollment option, if a local school district pays tuition for a resident pupil of high school age, the amount of tuition shall be determined by the board of directors of the community college with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the community college for the purpose of computing general aid to the community college (260C.14(2)).

The board of any community college [error in Code—this should say the board of any public school district] may, by mutual agreement with any college or university, permit any specially qualified high school student to attend advanced courses of academic instruction at the college or university. Credit earned in any such course at a college or university may be applied toward credit for high school graduation. Public school funds shall not be expended for payment of tuition or other costs for such attendance at a college or university, unless the payment is expressly permitted or required by law. The foregoing provisions shall also apply to college and universities in adjacent states when the institutions are located nearer to the homes or schools of the school district than the closest college or university within the state (282.26).

### **Tuition from the State Board of Regents**

The state board of regents shall pay to the local school boards the tuition payments and transportation costs as otherwise authorized by statutes for the elementary or high school education of students residing on land owned by the state and under the control of the state board of regents. Such payments for the three institutions of higher learning, the state University of Iowa, the Iowa State University of science and technology and the University of Northern Iowa, shall be made from the funds of the respective institutions other than state appropriations, and for the two noncollegiate institutions, the Iowa braille and sight saving school and the state school for the deaf the payments and costs shall be paid from moneys appropriated to the state board of regents (262.43).

### **Discontinued Grades and Sharing**

The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having accredited school systems. Only entire grades may be discontinued under subsection 282.7(1) and if a grade is discontinued, all higher grades in that district shall also be discontinued. The boards of directors entering into an agreement under this section shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. The agreement shall provide for transportation and authority and liability of the affected boards (282.7(1)). Pupils attending class for all or a substantial portion of a school day pursuant to a whole grade sharing agreement shall be not eligible for supplementary weighting except under special circumstances related to reorganization (257.11(1)(c)).

This agreement could be with a district in a contiguous state. A school district that negotiates an agreement with a school district in a contiguous state under subsection 272.7(3) is not eligible for supplementary weighting as a result of that agreement (282.7(3)).

Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1 or subsections 1 and 3. Whole grade sharing may either be one-way or two-way sharing. One-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and does not receive a substantial number of pupils from those districts in return. Two-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and receives a substantial number of pupils from those school districts in return. A whole grade sharing agreement shall be signed by the boards of the districts involved in the agreement not later than February 1 of the school year preceding the school year for which the agreement is to take effect (282.10).

An agreement for whole grade sharing shall establish a method for determination of costs, if any, associated with the sharing agreement. For one-way sharing, the sending district shall pay no less than one-half of the district cost per pupil of the sending district. For two-way sharing, the costs shall be determined by mutual agreement of the boards. The number of pupils participating in a whole grade sharing agreement shall be determined on the third Friday of September and third Friday of February of each year (282.12).

If students attend classes in another school district under section 280.15 under an agreement that provides for whole grade sharing, the boards of directors of the districts entering into these agreements shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12 (280.15).

The boards of directors of two or more school districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the district of their residence. The boards may also provide by agreement that the districts will combine their enrollments for one or more grades. The board of directors of districts entering into such agreements may provide for sharing the costs and expenses of the courses. If the agreement provides for whole grade sharing, the costs and expenses shall be paid as provided in sections 282.10 through 282.12 (256.13).

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state line for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall establish tuition and transportation fees in an amount acceptable to the affected boards, but tuition and transportation fees shall not be less than the lower average cost per pupil for the previous school year of the two affected school districts. For the purpose of this section average cost per pupil for the previous school year is determined by dividing the district's operating expenditures for the previous school year by the number of children enrolled in the district on the third Friday of September of the previous school year. A person attending school in another state shall continue to be treated as a pupil of the district of residence in the apportionment of the current school fund and the payment of state aid (282.8).

A student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school, unless the student was expelled or suspended from school and the conditions of expulsion or suspension have not been met. The student under expulsion or suspension shall not be enrolled until the board of directors of the school district to which territory of the dissolved school district was attached approves, by majority vote, the enrollment of the student. Notwithstanding section 282.24, the district of residence of the student, determined in the dissolution proposal, shall pay tuition to the school district selected by the student in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the student shall accept that tuition payment and enroll the student (275.55A).

### Open Enrollment

For a pupil participating in open enrollment, the board of directors of the district of residence shall pay to the receiving district the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of non-English speaking weighting under subsection 280.4(3) for the previous year multiplied by the state cost per pupil for the previous year. The district of residence shall also transmit the phase III moneys allocated to the district for the previous year for the full-time equivalent attendance of the pupil, who is the subject of the open enrollment request, to the receiving district specified in the request for transfer (282.18(7)).

For children requiring special education, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education (282.18(8), IAC 281—17.11). The prior year's state cost per pupil is not relevant for open enrolled special education students because tuition must be based on actual costs. Actual costs of the current year program are calculated on current year data. Phase III, however, is prior year even on special education students.

### Tuition Billing Comparison on Special Education Students That are and are not Open Enrolled.

SPECIAL EDUCATION STUDENT BILLING		
	OPEN ENROLLED IN	TUITIONED IN
SP ED PROGRAM COSTS	(Program expenditures at the appropriate level divided by student days for that level) multiplied by the student days of the student for whom this billing is being calculated.	(Program expenditures at the appropriate level divided by student days for that level) multiplied by the student days of the student for whom this billing is being calculated.
GEN ED PROGRAM COSTS	((District cost per pupil of the serving district times the appropriate percentage for the level) divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.	((District cost per pupil of the serving district times the appropriate percentage for the level) divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.
PHASE II	None	(Current year's Phase II per pupil amount divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.
PHASE III	<p>If the student was present in the district being billed on count day in the prior year, then calculate as follows: (Prior year's Phase III per pupil amount divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.</p> <p>If the student was not present in the district being billed on count day in the prior year, no Phase III is billed.</p>	(Current year's Phase III per pupil amount divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.
LEP FUNDING	Not eligible	Not eligible

Quarterly payments shall be made to the receiving district (282.18(9), IAC 281—17.10(5)).

If a parent or guardian of a child, who is participating in open enrollment under section 282.18, moves to a different school district during the course of either district's academic year [after count date], the child's first district of residence shall be responsible for payment of the cost per pupil plus weightings or special education costs to the receiving school district for the balance of the school year in which the move took place. The new district of residence shall be responsible for the payments during succeeding years (282.18(9)).

If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child, who is the subject of the request, is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the amount calculated in 282.18(7) [state cost per pupil for the previous year plus LEP and Phase III] until the start of the first full year of enrollment of the child (282.18(9)).

Resident students attending a laboratory school as described in chapter 265 under open enrollment shall not be included in the basic enrollment of the student's district of residence, and the laboratory school shall report the enrollment of the student directly to the department of education, unless the number of students from the district attending the laboratory school during the current school year, as a result of open enrollment, exceeds the number of students enrolled in the laboratory school from that district during the 1988-1990 school year. If the number of students enrolled in the laboratory school from a district during the current year exceeds the number of students enrolled from that district during the 1989-90 school year, those students who represent the difference between the current and the 1988-89 school year enrollment figures shall be included in the basic enrollment of the students' districts of residence and the district shall retain any moneys received as a result of the inclusion of the student in the district enrollment (282.18(15)). Two districts, Cedar Falls and Waterloo Community School Districts, are affected by this limitation. Cedar Falls Community School District may count the number of resident students open enrolled to a laboratory school that exceeds 527 students. Waterloo Community School District may count the number of resident students open enrolled to a laboratory school that exceeds 18 students. No other district is affected by this section.

If a transfer of a pupil from one district to another results in a transfer from one AEA to another, the sending district shall forward a copy of the request to the sending district's AEA. The receiving district shall forward a copy of the request to the receiving district's AEA. Any moneys received by the AEA of the sending district for the pupil who is the subject of the request shall be forwarded to the receiving district's AEA (282.18(9)).

A district of residence may apply to the school budget review committee (SBRC) if a student was not included in the resident district's enrollment count during the fall of the year preceding the student's transfer under open enrollment (282.18(9)). This situation would occur if the student moved into the district after the third Friday in September in the previous school year, or was not enrolled in school in the previous school year, or was enrolled in a nonpublic school or home schooling without dual enrollment or home school assistance in the previous school year. This section does not apply if the student was enrolled in school on the third Friday of September in the previous year but the resident district omitted the student from the enrollment count.

If the parent or guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent or guardian shall have the option to leave the pupil in the receiving district under open enrollment, to open enroll to another school district, or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the original district of residence shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year, if any, in which the move took place on or after the third Friday in September. The new district of residence shall be responsible for these payments during succeeding years of the agreement. If the move takes place between after the end of one school year and before the third Friday in September of the following school year, the new district of residence shall be responsible for that year's payment as well as succeeding years (IAC 281--17.8(6)).

If a parent or guardian moves out of the school district or residence, and the pupil is not currently under open enrollment, the parent or guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program or to open enroll to another school district. The parent or guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made on or before the Thursday before the third Friday of the following September. Timely requests under this subrule shall not be denied. If the move is on or after the third Friday in September, the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer (IAC 281--17.8(7)).

Open enrollment options shall be made available for pupils at no instructional cost to their parents or guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid (IAC 281--17.10).

For full-time pupils, the resident district shall pay each year to the receiving district an amount equal to the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4 and phase III money allocated to the district for the full-time equivalent attendance of the pupil as provided by chapter 294A (IAC 281--17.10(1)).

For home-schooled pupils who are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4 and phase III money allocated to the district for the full-time equivalent attendance of the pupil as provided by chapter 294A (IAC 281--17.10(2)).

For home-schooled pupils who are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .6 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by section 280.4 and phase III money allocated to the district for the full-time equivalent attendance of the pupil as provided by chapter 294A (IAC 281--17.10(3)).

The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.9(2) (IAC 281--17.10(4)).

In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at mid-year, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of both the cost per pupil and Phase III funds will be prorated based on the number of quarters of school enrollment (IAC 281--17.10(6)).

The resident district and the receiving district boards by mutual agreement may effectuate the transfer of an open enrollment pupil at any time following receipt of a petition for transfer which is approved by the two boards. If any transfer is made on or after the third Friday in September, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer (IAC 281--17.10(7)).

Open enrollment provisions do not apply to a student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, who may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school under section 275.55A.

Open enrollment provisions do not apply to eleventh and twelfth grade students who were residents of another Iowa district in the preceding school year and want to enroll in the former district of residence until graduation (257.6(d)). If the students are receiving a special education program pursuant to an IEP, the new district of residence counts the students and pays tuition to the former district of residence for the enrollment of the students. These students are considered tuitioned out rather than open enrolled out (OAG #88-8-3(L)).

If a district enters into a whole grade sharing agreement with a district which is also the receiving district for students in that grade level under open enrollment, the open enrollment status of those students continues unless withdrawn by the parent or guardian of those students (12 D.o.E. App. Dec 177).

### QUICK REFERENCE TUITION CHART

**All tuition is per diem; per portion of day if less than full time.**

<b>TUITION TYPE</b>	<b>COST BASIS</b>	<b>PHASE II (Flat rate for all districts)</b>	<b>LEP</b>	<b>DUE</b>	<b>CODE</b>	<b>ADDITIONAL AMOUNTS (Supplementary Weighting, categorical funding, etc.)</b>
Regular Education	Maximum fee chargeable is the district cost per pupil of the receiving district.	Current year's per pupil amount.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, many OAGs.	None.
Special Education	Actual costs for this student's program in the current year. Does not include custodial costs.	Current year's per pupil amount.	None.	Billed on or before February 15 and June 15.	282.20, 282.24.	None.
Regular Education, Whole grade sharing, one-way.	Minimum fee chargeable is ½ the district cost per pupil of the receiving district.	Current year's per pupil amount or as negotiated by the affected boards.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 282.12, 294A.9.	None.
Regular Education, Whole grade sharing, two-way.	Method for determination of costs shall be established by mutual agreement of boards, but may not exceed the district cost per pupil of the receiving district.	Current year's per pupil amount or as negotiated by the affected boards.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 282.12, 294A.9.	None.
Special Education, Whole grade sharing, one-way and two-way.	Actual costs for this student's program in the current year. Does not include custodial costs. (Same method as those not whole grade shared.)	Current year's per pupil amount or as negotiated by the affected boards.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 282.12, 294A.9.	None.
Regular Education, from or to adjoining state under 28E.	As negotiated by boards but not less than the lower average cost per pupil of the two districts for the prior year. Generally average costs = total general fund expenditures / ADM.	None.	None.	Billed on or before February 15 and June 15.	282.20, 282.8.	None.
Special Education, Placed out-of-state.	Actual costs for this student's program in the current year. Does not include custodial costs.	None.	None.	Billed on or before February 15 and June 15.	282.20, 282.24.	None.

Regular Education, Open Enrollment, full time pupil.	State cost per pupil for the prior year.	None.	Prior year LEP weighting times state cost per pupil in the prior year if the student was present on count date in the prior year. Otherwise, none.	Sending district shall pay quarterly; however a split quarter is prorated on a per diem basis.	282.18.	None.
Regular Education, Open Enrollment, dual enrolled K-8 grade student, or dual enrolled for student activities and 9-12 grade student.	Amount equal to .1 times the state cost per pupil for the prior year.	None.	Prior year LEP weighting times state cost per pupil in the prior year if the student was present on count date in the prior year. Otherwise, none.	Sending district shall pay quarterly; however a split quarter is prorated on a per diem basis.	282.18.	None.
Regular Education, Open Enrollment, 9-12 grade student, dual enrolled for academic classes.	No tuition paid. The receiving district counts these students on an FTE basis and does not bill for tuition.	None.	Prior year LEP weighting times state cost per pupil in the prior year if the student was present on count date in the prior year. Otherwise, none.	Sending district shall pay LEP weighting, if any, quarterly; otherwise, none.	282.18.	None.
Regular Education, Open Enrollment, home school assistance program pupil.	Amount equal to .6 times the state cost per pupil for the prior year.	None.	Prior year LEP weighting times state cost per pupil in the prior year if the student was present on count date in the prior year. Otherwise, none.	Sending district shall pay quarterly; however a split quarter is prorated on a per diem basis.	282.18.	None.
Special Education, Open Enrollment.	Actual costs for this student's program in the current year. Does not include custodial costs.	None.	None.	Sending district shall pay quarterly.	282.20, 282.24.	None.

Special Education, attending accredited nonpublic school located within the district.	Actual costs for this student's program in the current year provided by the school district in which the nonpublic school is located. No general education percentage may be billed to the resident district.	None.	None.	Billed on or before February 15 and June 15.		None.
Postsecondary Enrollment Options Act.	Lower of \$250 per student per course or the actual and customary costs of tuition, textbooks, materials, and fees directly related to the course. If the student does not complete the course, then none is paid.	None.	None.	Postsecondary institutions shall bill by May 1; district shall pay by June 30.	261C.6, IAC 281--22.5.	None.
Community College, 28E, not Postsecondary Enrollment Options Act.	As determined by board of the Community College with the consent of the local school board.	None.	None.	As determined by boards.	260C.14(2).	None.
College or University, Advanced Academic Coursework.	None, unless specifically permitted or required by law.	None.	None.	As determined by law.	282.26.	None.
Child Living in Psychiatric Hospital or Psychiatric Medical Institute for Children (PMIC), Not operated by the state.	District cost per pupil of the <u>resident</u> district. State hospitals and state PMICs cannot bill districts or AEAs.	Current year's per pupil amount.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 282.27.	None.
Child Living in a Mental Health Institute (MHI).	None.	None.	None.	None.		None.

Special Education, Child Living in Iowa School for the Deaf or Iowa Braille and Sightsaving School AND the resident district is providing for that child an interpreter, and aide, or assistive technology.	Actual cost to provide the interpreter, aide, or assistive technology for that student. No other costs can be billed. No general education percentage can be billed. Billed to resident district by AEA in which the state institution is located.	None.	None.	Billed on or before February 15 and June 15.		None.
Special Education, Child Living in an Iowa prison or correctional facility.	Actual cost to provide the special education instruction. No other costs can be billed. No general education percentage can be billed. Billed to resident district by AEA in which the state prison or correctional facility is located.	None.	None.	Billed on or before February 15 and June 15.		None.
Regular Education, Child Living in Foster Care or other Residential Facility located in the district; Child was not resident of the district prior to entering facility care.	Receiving district files claim with DE if aggregate days of service to all such pupils exceeds the number of such pupils present and counted on count date times 180 days. Does <u>not</u> bill resident district.	None.	None.	Receiving district shall file claim by August 1. Due July 15 on CAR.	282.31, 282.19.	None.
Special Education, Child Living in Foster Care or other Residential Facility located in the district; Child was not resident of the district prior to entering facility care. District of residence can be determined or has been determined by director of DE.	Actual costs for this student's program in the current year served by district in which facility is located. Does not include custodial costs. Billed to resident district.	Current year's amount.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 282.31, 282.19.	None.
Special Education, Child Living in Foster Care or other Residential Facility located in the district; District of residence cannot be determined and no district receives weighting for this child by counting this child on prior year's December count.	Receiving district files claim with DE for the actual costs for this student's program in the current year served by district in which facility is located. Does not include custodial costs. Does <u>not</u> bill any other district.	None.	None.	Receiving district shall file claim by August 1.	282.29, 282.31, 282.19.	None.

Special Education, Child Placed by District Court, (Parental rights terminated) and no district receives weighing for this child by counting this child on prior year's December count.	Receiving district files claim with DE for the actual costs for this student's program in the current year served by district in which the child was placed. Does not include custodial costs. Does <u>not</u> bill any other district.	None.	None.	Serving district shall file claim by August 1.	282.29, 282.31.	None.
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## Student Fees

It is the policy of the department of education that no Iowa student enrolled in a public school be excluded from participation in or denied the benefits of course offerings and related activities due to the student's or the student's parent's or guardian's financial inability to pay a fee associated with the class, program, or activity (IAC 281--18.1).

The board of directors of a public school district shall adopt a policy regarding the charging and collecting of fees for course offerings and related activities, and for transportation provided to resident students who are not entitled to transportation under Iowa Code section 285.1. The policy established by the board of directors shall apply to any fees charged. The board shall require that procedures be developed to implement the policy pursuant to these rules (IAC 281--18.2).

The policy required by rule 18.2 shall include provisions for granting a waiver, partial waiver, or temporary waiver of student fees upon application by the student. The policy shall include a provision stating that when an application for any fee waiver is granted, the fee or fees waived under the application are not collectable (IAC 281--18.3).

Fines assessed for damage or loss to school property are not fees and need not be waived (IAC 281--18.4).

Nothing in this chapter shall be construed to authorize the charging of a fee for which there is no authority in law (IAC 281--18.4).

Iowa Code expressly authorizes the following fees:

- Textbooks (301.1).
- School supplies (301.1).
- Summer school programs (282.6).
- Driver education programs (282.6).
- Transportation fees for resident students who are not otherwise entitled to free transportation (285.1).
- Eye protective devices (280.10).
- Ear protective devices (280.11).
- School meals (283A).
- Nonresident student tuition (282.1).

The board of directors of each and every school district is authorized and empowered to contract for and buy books and any and all other necessary school supplies at contract prices, and to sell the same to the pupils of their respective districts at cost, loan such textbooks to such pupils free, or rent them to such pupils at such reasonable fee as the board shall fix, and the money so received shall be returned to the general fund (301.1).

The board shall hold pupils responsible for any damage to, loss of, or failure to return any such books (301.26).

Fees may be charged resident pupils to cover instructional costs for a summer school program or driver education program (282.6).

Boards in their discretion may provide transportation for some or all resident pupils attending public school or pupils who attend nonpublic school who are not entitled to transportation. Boards in their discretion may collect from the parent or guardian of the pupil not more than the pro rata cost for such optional transportation (285.1(1)).

Boards in districts operating buses may transport nonresident pupils who attend public school, kindergarten through junior college, who are not entitled to free transportation provided they collect the pro rata cost of transportation from the parents (285.1(11)).

The board of directors of each local public school district shall provide the safety devices required for eye-protection. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district (280.10).

The board of directors of each local public school district shall provide the safety devices required for ear-protection. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district (280.11).

A school breakfast or lunch program means a program under which breakfasts or lunches are served by any public school on a nonprofit basis to children in attendance (283A.1(4)). School boards may use gifts, funds disbursed to them under the provisions of Chapter 283A, funds received from the sale of school breakfasts or lunches, and any other funds legally available for the purpose of operating a school breakfast or lunch program (283A.2(1)).

Nonresident children shall be charged the maximum tuition rate with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under whole grade sharing shall be charged tuition as provided by those Code sections (282.1).

A board may require a fee for special work in music but not for regular courses established by the board (OAG #27-6-21).

All facilities, supplies, and other items which are necessary or essential to instruction must be provided free of charge [except as expressly allowed by Code] in a tuition-free school which is required by law. A school district may purchase other supplies and distribute them to students, but they must be provided for free, rented for a reasonable fee, or sold at cost (OAG #79-12-22).

Public schools may not charge fees for courses offered as part of their educational program [except as expressly allowed by Code] as such fees constitute tuition. Schools may not charge fees for extracurricular activities as no express or necessarily implied statutory authority exists for such fees (OAG #81-8-29).

A school district may not assess fees for items which are necessary or essential to the instruction of a class unless such a fee is specifically authorized by the Code; however, a district may assess fees for school supplies which represent the cost of the item or a reasonable rental fee. The cost of items which are necessary or essential to the instruction of a class must be properly characterized as tuition rather than school supplies. Examples are art supplies for art classes and chemicals for science classes. In contrast, pens and paper used by students to take notes would be properly characterized as school supplies (OAG #93-7-3(L)).

## **Additional Weightings and Modified Allowable Growth**

### **Special Education**

"Special education" means classroom, home, hospital, institutional, or other instruction designed to meet the needs of children requiring special education; transportation and corrective and supporting services required to assist children requiring special education in taking advantage of, or responding to, educational programs and opportunities, as defined by rules of the state board of education (256B.2(2)).

"Children requiring special education" means persons under twenty-one years of age, including children under five years of age who have a disability in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication or learning disability, as defined by the rules of the department of education (256B.2(1)).

School districts shall pay the costs of special education instructional programs with the moneys available to the districts for each child requiring special education, by application of the special education weighting plan in section 256B.9. Special education instructional programs shall be provided at the local level if practicable, or otherwise by contractual arrangements with the area education agency board as provided in subsection 273.3(5), but in each case the total money available through section 256B.9 and chapter 257 because of weighted enrollment for each child requiring special education instruction shall be made available to the district or agency which provides the special education instructional program to the child, subject to adjustments for transportation or other costs which may be paid by the school district in which the child is enrolled (273.9(2)).

In order to provide funds for the excess costs of instruction of children requiring special education, above the costs of instruction of pupils in a regular curriculum, a special education weighting plan for determining enrollment in each school district is adopted in Iowa Code section 256B.9.

Shared-time and part-time pupils of school age who require special education shall be placed in the proper category and counted in the proportion that the time for which they are enrolled or receive instruction for the school year bears to the time that full-time pupils, carrying a normal course schedule, in the same school district, for the same school year are enrolled and receive instruction (256B.9(1)(e)).

The weighting for each category of child multiplied by the number of children in each category in the enrollment of a school district, as identified and certified by the director of special education for the area, determines the weighted enrollment to be used in that district for purposes of computations required under the state school foundation plan in chapter 257 (256B.9(2)).

Support service funds may not be utilized to supplement any special education programs authorized to use weighted instructional funds generated through the weighting plan (IAC 281—41.132(4)).

Special education instructional funds generated through the weighting plan may be utilized to provide special education instructional programs both in-state and out-of-state with the exceptions of itinerant hospital services or home services, itinerant instructional services and special education consultant services which shall utilize special education support service funds for both in-state and out-of-state placements (IAC 281—41.132(7)).

Eligible individuals below the age of six may be designated as full-time or part-time students depending on the needs of the child. Full-time early childhood special education (ECSE) instructional programming shall include 20 hours or more instruction per week. The total hours of participation in special education and general education, such as kindergarten or special education tuitioned preschool placements, may be combined to constitute a full-time program. Part-time ESCS instructional programming shall include up to 20 hours of instruction per week (IAC 281—41.132(8)).

Any financial aid provided to an agency in support of special education may be suspended in whole or in part if the agency is found to be in noncompliance with any of the provisions of applicable statutes or rules (IAC 281—41.132(1)).

### **Supplementary Weighting of Resident Students for Shared Classes or Teachers**

If the school budget review committee (SBRC) certifies to the department of management that the shared classes or teachers would otherwise not be implemented without the assignment of additional weighting, pupils attending classes in another school district, attending classes taught by a teacher who is employed jointly under section 280.15, or attending classes taught by a teacher who is employed by another school district, are assigned a weighting of forty-eight hundredths of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district (257.11(2)(b)).

Pupils attending class as defined above for all or a substantial portion of a school day pursuant to a whole grade sharing agreement executed under sections 282.10 through 282.12 shall be eligible for supplementary weighting for a limited time and under specific circumstances if the boards have jointly adopted a resolution to study reorganization (257.11(2)(c)).

A school district which establishes a regional academy to which multiple other districts send students shall be eligible to assign its resident pupils attending classes at the academy a weighting of 0.1 of the percentage of the pupil's school day during which the pupil attends classes at the regional academy. The maximum amount of additional weighting for which the school district shall be eligible is an amount corresponding to fifteen additional pupils. A regional academy means an educational institution established by a school district to which multiple schools send pupils in grades seven through twelve. A regional academy shall include in its curriculum advanced-level courses. In addition, the academy may also include a virtual academy and vocational-technical programs (257.11(5)).

If the school budget review committee (SBRC) certifies to the department of management that the class would not otherwise be implemented without the assignment of additional weighting, pupils attending a community college-offered class or attending a class taught by a community college-employed teacher are assigned a weighting of forty-eight hundredths of the percentage of the pupil's school day during which the pupil attends class in the community college or attends a class taught by a community college-employed teacher. The following requirements shall be met for the purposes of assigning an additional weighting for classes offered through a sharing agreement between a school district and community college. The class must be all of the following:

1. Supplementing, not supplanting, high school courses.
2. Included in the community college catalog or an amendment or addendum to the catalog.
3. Open to all registered community college students, not just high school students.
4. For college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.
5. Taught by a teacher meeting community college licensing requirements.
6. Taught utilizing the community college course syllabus.
7. Of the same quality as a course offered on a community college campus (257.11(3)).

Supplant means the community college's replacing the identical course that was offered by the school district in the preceding year or the second preceding year, or the community college's offering a course that is required by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11 (IAC 281—97.1).

Pupils attending class for all or a substantial portion of a school day pursuant to a whole grade sharing agreement shall not be eligible for supplementary weighting unless they meet special circumstances related to reorganization (257.11(1)(c)).

A pupil eligible for the weighting plan provided in section 256B.9 [special education] is not eligible for supplementary weighting (257.11(6)).

A pupil attending an alternative program or an at-risk pupils' program, including alternative high school programs, is not eligible for supplementary weighting (257.11(6)).

A pupil attending a class in which students from one or more other school districts are enrolled and which is taught via the Iowa communications network (ICN) is not deemed to be attending a class in another school district or in a community college for the purposes of this section and the school district is not eligible for supplementary weighting for that class (257.11(5)).

A school district may negotiate an agreement for attendance of its pupils in a school district located in a contiguous state. A school district that negotiates an agreement with a school district in a contiguous state is not eligible for supplementary weighting as a result of that agreement (282.7(3)).

Notwithstanding any law authorizing supplementary weighting, if any of the following applies, the students are ineligible to be counted for supplementary weighting:

- a. Nonresident students attending the district under any arrangement.
- b. Students taking courses via ICN or other television or electronic medium.
- c. Students eligible for special education weighting.
- d. Students in any grades involved in whole grade sharing except as specifically allowed by law.
- e. Students involved in open enrollment in or out.
- f. Students enrolled in nonpublic schools.
- g. Students participating in competent private instruction (HSAP or dual enrolled).
- h. Students participating in shared services rather than shared classes.
- i. Students taking classes under post secondary enrollment option (PSEO).
- j. Students enrolled in courses or programs offered by their own resident districts.
- k. Students enrolled in courses or programs taught by teachers employed by their own resident districts.
- l. Students enrolled in at-risk programs or alternative school programs (IAC 281—97.2(6)).

If a resident district has a teacher qualified and available to teach the course its students are taking in another district or by a teacher employed by another district, students in that course are not eligible for supplementary weighting.

Determination of whether a course offered by a community college using local school facilities may be considered a community college course for weighting purposes should be made on a case-by-case basis. In order to receive supplementary weighting, there must be factors which establish that a class offered outside community college facilities is nonetheless a class "in a community college," rather than a district offering (OAG #98-7-2(L)).

## **Limited English Proficient Weighting**

In order to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in the regular curriculum, students identified as limited English proficient shall be assigned an additional weighting that shall be included in the weighted enrollment of the school district of residence for a period not exceeding three years. However, the school budget review committee may grant supplemental aid or modified allowable growth, to a school district to continue funding a program for students after the expiration of the three-year period (280.4(3)). This weighting is .19 for the first three years that student is enrolled in the limited English proficient program in the district.

The SBRC may also grant supplemental aid or modified allowable growth for an unusual need to continue providing a program or other special assistance to non-English speaking pupils after the expiration of the three-year period specified in section 280.4 (257.31(5)(j)).

### **Weighting Plan for At-Risk Programs and Alternative Schools**

In order to provide additional funding to school districts for programs serving at-risk pupils and alternative school pupils, a supplementary weighting plan for at-risk pupils is adopted. The formula is based partly on budget enrollment in the school district and partly on the percentage of pupils in a school district enrolled in grades one through six, as reported by the school district on the BEDS for the base year, who are eligible for free and reduced price meals. The formula is calculated by the department of management and entered on the aid and levy worksheet for that district (257.11(4)).

### **Returning Dropout and Dropout Prevention Program**

The budget of an approved program for returning dropouts and dropout prevention for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 257.8. Annually, the department of management shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the program for returning dropouts and dropout prevention for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources (257.41).

### **Gifted and Talented Children**

The budget of an approved gifted and talented children program for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district. The remaining portion of the budget shall be funded by the increase in allowable growth for the budget year beginning July 1, 1999, increased in subsequent years by each year's state percent of growth. If any portion of the gifted and talented budget remains unexpended at the end of the budget year, the remainder shall be carried over to the subsequent budget year and added to the gifted and talented program budget for that year (257.46).

### **Tuition and Program Assistance**

#### **Vocational Education Aid**

If a school corporation maintains an approved vocational school, department, or classes in accordance with the rules adopted by the state board, and rules and standards adopted by the board of educational examiners, and the state plan for vocational education, adopted by the board for vocational education and approved by the United States department of education, the director of the department of education shall reimburse the school corporation at the end of the fiscal year for its expenditures for salaries and authorized travel of vocational teachers from federal and state funds. However, a school corporation shall not receive from federal and state funds a larger amount than one-half the sum which has been expended by the school corporation for that particular type of program. If federal and state funds are not sufficient to make the reimbursement to the extent provided in this section, the director shall prorate the respective amounts available to the corporations entitled to reimbursement (258.5).

### **Child Living in Psychiatric Hospitals or Institutions**

The public school district in which is located a psychiatric unit of a hospital licensed under chapter 135B or a psychiatric medical institution for children licensed under chapter 135H, which is not operated by the state, shall be responsible for the provision of educational services to children residing in the unit or institution. Children residing in the unit or institution shall be included in the basic enrollment of their districts of residence, as defined in subsection 282.31(4) (282.27).

The board of directors of each district of residence shall pay to the school district in which is located such psychiatric unit or institution, for the provision of educational services to the child, a portion of the district of residence's district cost per pupil for each of such children based upon the proportion that the time each child is provided educational services while in such unit or institution is to the total time for which the child is provided educational services during a normal school year (282.27).

### **Children at Eldora and Toledo**

The AEA in which the state training school and the Iowa juvenile home are located and the department of human services on behalf of the training school and juvenile home shall submit an annual joint application by January 1 for the

next succeeding school year to the department of education describing the proposed special education instructional and support programs and service improvements for the training school and juvenile home. The department of education shall review and approve or modify the program and proposed budget by February 1 and shall notify the department of revenue and finance, the AEA, and the department of human services of the approved budget amount. The moneys for the approved budget shall supplement and not supplant moneys equal to the moneys expended for education for the fiscal year beginning July 1, 1986, by the department of human services. The moneys for the approved budget shall be used to ensure that the training school and juvenile home comply with appropriate administrative rules relating to special education adopted by the department of education. The area education agency shall submit an accounting to the department of education by August 1 following the school year for the actual costs of the special education programs and services provided at the training school and juvenile home. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 during that fiscal year to all school districts in the state. The portion of the total amount of the approved accounting amount that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year.(282.28). The costs of these programs shall not otherwise be billed to school districts.

An AEA or local school district may appeal a decision made pursuant to section 282.28 or 282.31 to the state board of education. The decision of the state board is final (282.32).

### **Children Placed by District Court**

Notwithstanding subsection 282.31(1), a child who has been identified as requiring special education, who has been placed in a facility or home by the district court, and for whom parental rights have been terminated by the district court, shall be provided special education programs and services on the same basis as the programs and services are provided for children requiring special education who are residents of the school district in which the child has been placed (282.29).

The actual special education instructional costs incurred for a child that lives in a facility, or who have been placed in a facility or home by the district court, who requires special education and who is not enrolled in the educational program of the district of residence of the child but who receives an educational program from the district in which the facility or home is located, shall be paid by the district of residence of the child to the district in which the facility or home is located, and the costs shall include the cost of transportation (282.31(2)(a)).

A child shall not be denied special education programs and services because of a dispute over the determination of district of residence of the child. The director of the department of education shall determine the district of residence when a dispute arises regarding the determination of the district of residence for a child who requires special education pursuant to this subsection (282.31(2)(b)).

The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a" was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the school district by October 1. The total amount paid by the department of revenue shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year (282.31(3)).

For purposes of funding juvenile home and foster care programs, district of residence means the school district in which the parent or legal guardian of the child resides or the district in which the district court is located if the district court is the guardian of the child (282.31(4)).

For eligible individuals placed by the district court, and for whom parental rights have been terminated by the district court, the school district in which the facility or home is located must provide special education. Costs shall be certified to the director of education by August 1 of each year for the preceding fiscal year by the director of the AEA in which the pupil has been placed. Payment will be made from the general fund of the state (IAC 281--41.132(6)).

### **Interstate Compact--Children Placed by District Court Out of State**

Sending agency means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state (232.158).

Receiving state means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons (232.158).

The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement (232.158).

The appropriate public authorities as used herein means the state department of human services (232.160).

Financial responsibility for any child placed pursuant to the provisions of the interstate compact for the placement of children shall be determined in accordance with the provisions in article V of 232.158 (232.159). The fee negotiated by the resident state and the out-of-state agency includes all services provided to that child except the additional costs of special education services.

### **Child Living in a Shelter Care Home or Juvenile Detention Home**

An AEA shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

1. An approved or licensed shelter care home. A juvenile shelter care home means a physically unrestricting facility used only for the shelter care of children (232.2(34)).
2. An approved juvenile detention home. A juvenile detention home means a physically restricting facility used only for the detention of children (232.2(32)).

The AEA shall provide the educational program by any one of, but not limited to, the following:

1. Providing for the enrollment of the child in the district of residence of the child, subject to the approval of the district in which the child is living.
2. Cooperating with the district of residence of the child and obtaining the course of study and textbooks of the child for use in the special facility into which the child has been placed.
3. Providing for the enrollment of the child in the district in which the child is living, subject to the approval of the district in which the child is living.

An AEA shall not provide educational services to a facility unless the facility makes a request for educational services to the AEA (282.30(1)).

A child who lives in a facility and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The AEA shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of revenue and finance shall pay the approved budget amount for an AEA in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year (282.31).

If juvenile home students not requiring special education attend a local school district, other than the district of residence, tuition shall be calculated in the manner prescribed in Iowa Code section 282.24 for determining tuition costs for any nonresident student attending a local school district. In lieu of paying tuition to the local school district for these students, the AEA may request the local school district to account for these students through the foster care facility claim process (IAC 281—63.16(2)(a)).

Tuition for students provided a special education program pursuant to an IEP shall be paid by the district of residence, in accordance with the rules of special education and pursuant to Iowa Code chapter 282, to the district in which the juvenile home is located or to the AEA, whichever is providing the special education. The district in which the juvenile home is located or the AEA, whichever is providing the special education, shall notify the district of residence if the child was being served on the third Friday in September by the district in which the home is located or by the AEA. The district in which the juvenile home is located or the AEA, whichever is providing the special education, shall also

notify the district of residence if the child was being served on December 1 by the district in which the home is located or by the AEA (IAC 281—63.16(2)(b)).

## **Child Living in a Foster Care Facility**

A child who is living in a licensed child foster care facility as defined in section 237.1, or in a facility that provides residential treatment as "facility" as defined in section 125.2, which is located in a school district other than the school district in which the child resided before receiving foster care may enroll in and attend an accredited school in the school district in which the child is living (282.19).

Child foster care means the provision of parental nurturing, including but not limited to the furnishing of food, lodging, training, education, supervision, treatment or other care, to a child on a full-time basis by a person other than a relative or guardian of the child (237.1(4)).

Chemical substance abuse facility means an institution, a detoxification center, or an installation providing care, maintenance and treatment for substance abusers licensed by the state, hospitals licensed under chapter 135B, or the state mental health institutes designated by chapter 226 [Mount Pleasant, Independence, Clarinda, and Cherokee] (125.1(9)).

A child who lives in a facility or home and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located (282.31(1)(b)).

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the third Friday of September of that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of revenue and finance to the school district by October 1. The department of revenue and finance shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid during the remainder of that fiscal year to all school districts in the state (282.31(1)(b)).

The days of enrollment shall only include the regular school session, and shall not include days of summer session (OAG 93-1-21(L)).

A child who requires special education and who is not enrolled in the educational program of the district of residence of the child but who receives an educational program from the district in which the facility or home is located, shall be paid by the district of residence of the child to the district in which the facility or home is located, and the costs shall include the cost of transportation (282.31(2)(a)).

The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the department of revenue and finance to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a" was not made by any district. The district shall submit a proposed program and budget to the department of education by January 1 for the next succeeding school year. The department of education shall review and approve or modify the program and proposed budget and shall notify the district by February 1. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The department shall review and approve or modify the claim and shall notify the department of revenue and finance of the approved claim amount by September 1. The total amount of the approved claim shall be paid by the department of revenue and finance to the school district by October 1 (282.31(3)).

Programs may be provided during the summer and funded under section 282.31 if the school district or AEA determines a valid educational reason to do so (282.31(5)).

"Child foster care" means the provision of parental nurturing, including but not limited to the furnishing of food, lodging, training, education, supervision, treatment or other care, to a child on a full-time basis by a person other than a relative or guardian of the child, but does not include:

- a. Care furnished by an individual person who receives the child of a personal friend as an occasional and personal guest in the individual person's home, free of charge and not as a business,

- b. Care furnished by an individual person with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement,
- c. Care furnished by a private boarding school subject to approval by the state board of education pursuant to section 256.11,
- d. Child day care furnished by a child care center, group day care home, or family day care as defined in section 237A.1,
- e. Care furnished in a hospital licensed under chapter 135B or care furnished in a nursing facility licensed under chapter 135C (237.1(4)).

The definition of "facility" and "licensee" includes that of a licensed foster parent and foster parent home even if it is a regular family dwelling with only one foster child (AG, Informal advice, September 10, 1992).

The Department of Human Services, as custodians for a child, has the authority to sign the consent forms necessary for the child to take part in school activities, get a drivers license and obtain certain types of medical care (OAG #84-12-9(L)).

School districts in which any licensed foster care, residential treatment for substance abusers or other residential facilities not operated by the state is located are responsible for providing the educational program regardless of the residency of the students (282.19). The school district in which the facility is located may contract with the facility to provide the educational program. This is the decision of the district. A facility does not have the authority to provide an educational program unless contracted by the district to do so.

An AEA or local school district may appeal a decision made pursuant to section 282.28 or 282.31 to the state board of education. The decision of the state board is final (282.32).